

1 TERRY GODDARD
Attorney General
2 Firm State Bar No. 14000

3 ELIZABETH A. CAMPBELL
Assistant Attorney General
4 State Bar No. 018311
1275 W. Washington, CIV/LES
5 Phoenix, Arizona 85007-2997
Tel: (602) 542-7979
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **ANDREW MAREK**

12 Holder of License No. 13113
For the Practice of Pharmacy
13 In the State of Arizona

Board Case No. 07-0055-PHR

**CONSENT AGREEMENT
AND ORDER FOR PROBATION**

14
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the
17 public interest, statutory requirements and the responsibilities of the Arizona State Board
18 of Pharmacy ("Board") and under A.R.S. §§ 32-1901, *et. seq.* and 41-1092.07(F)(5),
19 Andrew Marek ("Respondent"), holder of Pharmacist License Number 13113 in the State
20 of Arizona, and the Board enter into the following Recitals, Findings of Fact,
21 Conclusions of Law and Order ("Consent Agreement") as a final disposition of this
22 matter.

23 1. Respondent has read and understands this Consent Agreement and has had
24 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
25 opportunity to discuss this Consent Agreement with an attorney.
26

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3298 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. All admissions made by the Respondent in this Consent Agreement are
24 made solely for the final disposition of this matter, and any related administrative
25 proceedings or civil litigation involving the Board and Respondent. Therefore, any
26

1 admissions made by Respondent in this Consent Agreement are not intended for any
2 other use, such as in the context of another regulatory agency's proceedings, or civil or
3 criminal proceedings, whether in the State of Arizona or in any other state or federal
4 court.

5 9. Respondent acknowledges and agrees that, upon signing this Consent
6 Agreement and returning this document to the Board's Executive Director, he may not
7 revoke his acceptance of the Consent Agreement or make any modifications to the
8 document regardless of whether the Consent Agreement has been signed by the
9 Executive Director. Any modification to this original document is ineffective and void
10 unless mutually agreed by the parties in writing.

11 10. Respondent understands that the Consent Agreement shall not become
12 effective unless and until adopted by the Board and signed by its Executive Director.


13 11. If a court of competent jurisdiction rules that any part of this Consent
14 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
15 shall remain in full force and effect.

16 12. Respondent understands and agrees that if the Board does not adopt this
17 Consent Agreement, he will not assert as a defense that the Board's consideration of this
18 Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

19 13. Respondent understands that this Consent Agreement is a public record that
20 may be publicly disseminated as a formal action of the Board and may be reported as
21 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
22 Protection Data Bank.

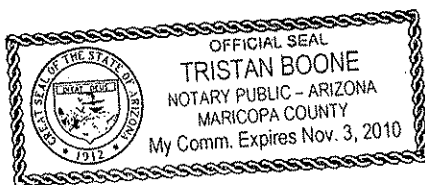
23 14. Respondent understands that any violation of this Consent Agreement
24 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
25 1901.01(B)(20), -1927(A)(1).
26

1 ACCEPTED AND AGREED BY RESPONDENT

2
3 
4 Andrew Marek

Dated: 7-9-07

5 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
6 this 9 day of July, 2007, by Andrew Marek.



Tristan Boone

NOTARY PUBLIC

My Commission expires:

Nov 3, 2010

10
11 **FINDINGS OF FACT**

12 1. The Arizona State Board of Pharmacy ("Board") is the duly constituted
13 authority for licensing and regulating the practice of pharmacy in the State of Arizona.

14 2. Andrew Marek ("Respondent") is the holder of license number 13113 to
15 practice as a pharmacist in the State of Arizona.

16 3. During all times relevant to these Findings, Respondent worked as a
17 pharmacist at Safeway Pharmacy #1291 in Fountain Hills, Arizona ("Pharmacy").

18 4. On or about January 9, 2007, the Board received a complaint that a patient
19 had received Trazodone 50mg instead of the prescribed Tramadol 50mg, and became
20 drowsy after ingesting one or two of the incorrect medication. Respondent, the
21 pharmacist on duty at the time of the incident, was not sure how the error occurred. The
22 prescription was correctly processed and a label was created for Tramadol 50mg but
23 Trazodone 50mg was placed in the bottle.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35
- 36
- 37
- 38
- 39
- 40
- 41
- 42
- 43
- 44
- 45
- 46
- 47
- 48
- 49
- 50
- 51
- 52
- 53
- 54
- 55
- 56
- 57
- 58
- 59
- 60
- 61
- 62
- 63
- 64
- 65
- 66
- 67
- 68
- 69
- 70
- 71
- 72
- 73
- 74
- 75
- 76
- 77
- 78
- 79
- 80
- 81
- 82
- 83
- 84
- 85
- 86
- 87
- 88
- 89
- 90
- 91
- 92
- 93
- 94
- 95
- 96
- 97
- 98
- 99
- 100

2
3

4
5

6
7
8
9

10
11
12
13

14

15
16
17

18
19
20
21

2

2

2

2

2

1 3. Respondent shall advise the Board immediately of any change in
2 pharmacy employment status throughout the term of his probation.

3 4. Respondent shall furnish the Board with a list of all jurisdictions in
4 which he maintains or has maintained licensure in the profession of pharmacy
5 along with the registration numbers of said licenses.

6 5. Respondent shall obey all federal and state laws and rules governing
7 the practice of pharmacy.

8 6. If Respondent violates this order in any way or fails to fulfill the
9 requirements of this order, the Board, after giving the respondent notice and the
10 opportunity to be heard, may revoke, suspend or take other disciplinary actions
11 against the Respondent's license. The issue at such a hearing will be limited
12 solely to whether this order has been violated.

13 7. Respondent shall appear before the Board at a regularly scheduled
14 Board meeting three months after the effective date of this Order to request that
15 the probation imposed by this order be terminated. Respondent's failure to
16 petition the Board to terminate the probation shall extend the probation period.

17 31ST
18 DATED this _____ day of JULY, 2007.

19
20 ARIZONA STATE BOARD OF PHARMACY

21 (Seal)

22 By:



23 HAL WAND, R.Ph.
24 Executive Director
25
26

1 ORIGINAL OF THE FORGOING FILED
this 31 day of July, 2007, with:

2 Arizona State Board of Pharmacy
3 4425 W. Olive Avenue, Suite 140
4 Glendale, Arizona 85302

5 EXECUTED COPY OF THE FOREGOING MAILED
BY CERTIFIED MAIL

6 this 31 day of July, 2007, to:

7 Andrew Marek
15532 E. Morning Glory Way
8 Fountain Hills, AZ 85268

9 EXECUTED COPY OF THE FOREGOING MAILED
10 this 31 day of July, 2007, to:

11 Elizabeth A. Campbell
Assistant Attorney General
12 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
13
14

15 #496893
16
17
18
19
20
21
22
23
24
25
26